To the Editor,

The Heart Mountain Wyoming Foundation (HMWF) has been in consultation with Japanese American History: Not for Sale (Not for Sale) and the Japanese American National Museum (JANM) to provide the Asian American Law Journal (AALJ) with our comments on “The Art of War: How Japanese Internment Art Was Saved From Auction and Conserved for Posterity.” Unfortunately, the article distorts the various roles of organizations referenced, as well as the individuals mentioned in the article.

While we understand that this article focuses primarily on legal issues, we believe that an account of the successful resolution of the controversy cannot be properly understood without explaining the significance of the grassroots movement to save the Eaton items, particularly given the Journal’s stated mission of “speaking truth to power.” One prominent Japanese American attorney commented that he hadn’t seen this type of engagement since the redress movement that culminated in the passage of the Civil Liberties Act in 1988. If this is in fact true, it is great news that the Japanese American community was once again able to come together to effect change.

Activism is an important force that has the potential to alter the legal landscape, and we have seen the positive effects of activism in changes to law throughout our history. It was the activism of the Civil Rights Movement that led to concrete legislation, just as was the case for Japanese Americans in the 1980s. It’s unfortunate that this important advocacy issue was overlooked when it was a successful example of the great American tradition of peaceful protest. By referring to the social media advocacy efforts as “cyberwar” and “social media war propaganda,” the article disparages the role of Not for Sale and the thousands of voices that responded nationally, while downplaying the importance of its social media advocacy. Stopping the public auction of the Eaton items was a group effort; the legal efforts of HMWF were complemented by the social media movement, and together they emphasized the issues with respect to provenance and ownership.

HMWF also takes issue with the attribution of success to the “softer and more emotional appeal;” this approach was attempted by HMWF and rejected at every turn by Rago Arts. Ultimately it was HMWF’s legal advocacy that forced Rago Arts to stop the auction, giving Greg Kimura the space to step in and acquire the items. HMWF first sent a letter to Rago asking them to delay the auction; then with this refusal, HMWF offered to pay $50,000 for the collection, twice the appraised value. When this was turned down, HMWF encouraged them to sell the items privately to a Japanese American organization to avoid breaking up the collection, due to the irreparable injury that would be caused if the public auction took place and the pieces were scattered throughout the world with no way of tracking them down. When all of these friendly offers were rejected, HMWF was left with no recourse except to hire a law firm to file an injunction to halt the process. It is clear that Kimura would not have been able to use a seemingly softer approach had the advocacy of Not For Sale and HMWF not come before.

The roles of JANM and Secretary Norman Mineta are misstated. Mineta was not the point person for JANM in discussions with the Consignor, though the author is correct in stating that he was directly impacted by the incarceration and offered credi ble authority to JANM. It appears that all the information about JANM’s role comes from Kimura, the former CEO of JANM, which is problematic. JANM was not a “new face” that decided on its own to contact Rago; JANM had been involved since the beginning, taking a backseat to HMWF. HMWF had approached JANM on April 9 about matching funds to bid for the items, but Kimura refused to match the funds unless JANM got full control of the items. Six days later, after HMWF had gathered written support from members of the Japanese American community, Kimura sent in a letter of support for HMWF’s actions and said he was willing to consider matching funds if the items went to auction. On April 22, after the
auction had been halted, HMWF spoke with Kimura and George Takei about JANM taking the lead because it was believed they would have more leverage. This was done with the belief that JANM would include HMWF and other Japanese American organizations in their discussions, which did not happen.

We are grateful to have this topic covered by the Journal, but a firm knowledge of the roles of various stakeholders in the Japanese American community is critical to understanding how the legal advocacy was effective and achieved such a positive outcome.

Sincerely,

Shirley Ann Higuchi, JD
Chair, Heart Mountain Wyoming Foundation

cc: HMWF Board and Advisory Council